

### REMARKS

Applicant has amended claims 5, 10, 11, 12, 14, 15 and 16. Claims 17-20 have been withdrawn. These amendments have been made to place them in better form for examination and to further obviate the 35 U.S.C. §112 rejections as set forth in the Office Action dated June 17, 2003. It is believed none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections are requested.

The Examiner has rejected claims 10 and 14-16 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, claim 10 is indefinite in its recitation of "yellow dent or flint corn seed". Applicant has amended claim 10 as suggested by the Examiner by insertion of the term "yellow" before the term "flint." Claim 14 is indefinite in its recitation of "wherein said inbred plant has at least one GaS allele." Applicant has amended claim 14 to delete the phrase "wherein said inbred plant has at least one GaS allele." Claim 15-16 are indefinite in their recitation of "F1 seed produced has less than .05 [or .01] percent outcross seed". Applicant has amended Claims 15 and 16 to delete the term "F1."

Withdrawal of these 35 U.S.C. §112, second paragraph, rejections are requested.

Claims 5 and 8 are rejected under 35 U.S.C. §102(b) as being anticipated. Without conceding that Claims 5 and 8 are anticipated, Applicant has amended claim 5 by inserting the term "non-popcorn" in step "a)."

Withdrawal of this 35 U.S.C. §102(b) rejection is requested.

Claims 5, 7 and 8 are rejected under 35 U.S.C. §102(b) as being anticipated by each of Podol'skaya (1988) and Sevov. Without conceding that Claims 5, 7 and 8 are anticipated, Applicant has amended claim 5 by inserting the term "non-popcorn" step "a)."

Withdrawal of this 35 U.S.C. §102(b) rejection is requested.

Claims 8, 11 and 14 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over each of Podol'skaya (1982), Nelson and Kermicle et al.

Although not conceding that Claims 11 and 14 are anticipated by or, in the alternative, obvious over Podol'skaya (1982), Claims 11 and 14 have been amended to include the phrase "which are not sweetcorn" to clarify that the hybrid corn plants are not sweetcorn hybrid plants. Although not conceding that Claim 5 is anticipated by or, in the alternative, obvious over Podol'skaya (1982), Claim 5 has been amended to include the phrase "non-sweetcorn" to clarify that the male corn inbred in step "a)" is not a sweetcorn male inbred.

Applicant respectfully asserts that the Examiner has mischaracterized Nelson as teaching Central American races of field and dent corn which are heterozygous for the GaS allele. The passages from Nelson cited by the Examiner, i.e. page 497 (second full paragraph) and page 501 (first two full paragraphs), actually state that the Central American races were homozygous for the GaS allele.

Examiner has further stated that Kermicle teaches maize plants heterozygous for the GaS allele with the elite corn inbred W22 as a parent. Applicant respectfully asserts that W22 is not an elite corn inbred as defined by Applicant in the specification at page 4, lines 20-21. Although not conceding that Claims 11 and 14 are anticipated by or, in the alternative, obvious over Kermicle, Applicant has amended claims 11 and 14 to clearly indicate that the corn plants are "elite yellow corn hybrid" plants, as defined by Applicant in the specification at page 4, lines 22-23.

Withdrawal of these rejections are requested.

Claims 11 and 14 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Miller (U.S. 5,491,294). Although not conceding that Claims 11 and 14 are anticipated by or, in the alternative, obvious over Miller, Applicant has amended Claims 11 and 14 to include the phrase "which contain at least one GaS allele."

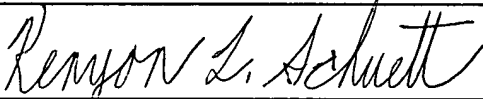
Withdrawal of these rejections are requested.

Claims 1-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Podol'skaya (1982) taken with each of Nelson, Podol'skaya (1988) and Sevov.

Applicant respectfully asserts that the Examiner has mischaracterized Podol'skaya (1982) as teaching the method for introgressing the GaS allele into elite yellow field corn genotypes. Podol'skaya (1982) rather teaches test crossing for a scientific study and does not make mention of introgressing the GaS allele into elite yellow field corn genotypes.

Withdrawal of this rejection is requested.

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §§102, 103 and 112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
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